

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSE LOPEZ TORRES, ALVIN GAITAN
BENITEZ, CHRISTIAN LEMUS CERNA,
OMAR DEJESUS CASTILLO, DOUGLAS
DURAN CERRITOS, MANUEL ERNESTO
PAIZ GUEVARA, and JESUS ALEJANDRO
CHAVEZ,

Defendants.

Crim. No. 1:14cr306

April 7, 2016

JURY TRIAL

** EXCERPT: TESTIMONY OF VANIA VARGAR **

BEFORE: THE HONORABLE GERALD BRUCE LEE
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR GOVERNMENT: UNITED STATES ATTORNEY'S OFFICE
BY: JULIA MARTINEZ, AUSA
STEPHEN M. CAMPBELL, AUSA
TOBIAS TOBLER, AUSA

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(End of excerpt)

PROCEEDINGS
(Requested Excerpt)

... (Court in session at 2:31 p.m.)

MR. TOBLER: United States calls Vania Vargas.

THE COURT: Ms. Martinez, were you able to locate the glossary?

MS. MARTINEZ: We have, Your Honor, and it has been provided --

THE COURT: Thank you.

MS. MARTINEZ: -- to defense counsel. We also have copies for other defense counsel, if they would like copies.

THE COURT: All right. Thank you.
(Witness sworn.)

THE WITNESS: Yes.

THE COURT: You may proceed.

THEREUPON, VANIA VARGAS, having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TOBLER:

Q. Good afternoon, ma'am.

A. Hello.

Q. Could you please state your name and spell it for the record.

- 1 A. Vania Vargas, V-a-n-i-a, V-a-r-g-a-s.
- 2 Q. Where do you work, ma'am?
- 3 A. At Washington Field Office.
- 4 Q. For what organization?
- 5 A. The FBI.
- 6 Q. What is your position with the FBI?
- 7 A. I'm a contract linguist.
- 8 Q. How long have you been in that position?
- 9 A. Almost ten years.
- 10 Q. What languages do you speak?
- 11 A. Spanish and English.
- 12 Q. How long have you spoken Spanish?
- 13 A. It's my first language.
- 14 Q. Where did you learn Spanish?
- 15 A. In Bolivia.
- 16 Q. Are you from Bolivia?
- 17 A. Yes.
- 18 Q. How long have you spoken English?
- 19 A. I -- since I was four.
- 20 Q. Where did you work prior to the FBI?
- 21 A. Bank of America.
- 22 Q. How long did you work at the Bank of America?
- 23 A. About seven years.
- 24 Q. Where was the bank branch in which you worked?
- 25 A. I worked in different ones: Woodley Park,

1 Wheaton and Gaithersburg.

2 Q. What was your position at the bank?

3 A. A banker.

4 Q. In your role as a banker, did you use your
5 Spanish skills?

6 A. I did.

7 Q. How so?

8 A. I interacted with Spanish-speaking customers.

9 Q. From what countries were the people you spoke to
10 in Spanish?

11 A. Most of them, Central Americans.

12 Q. What countries within Central America?

13 A. El Salvador, Honduras, Guatemala.

14 Q. And what would you -- when you spoke to these
15 folks from Central America, what would you speak to them
16 about?

17 A. I would help them with their banking, their
18 mortgage, their investment.

19 Q. Were you able to communicate with those
20 individuals from Central America?

21 A. Yes.

22 Q. Based on your experience, would you agree that
23 Spanish speakers from different Spanish speaking
24 countries have different manners of speaking the
25 language?

1 A. Yes.

2 Q. With what dialects of Spanish are you familiar?

3 A. Central Americans, Mexicans, Dominicans, Puerto
4 Ricans.

5 Q. When you say Central American, does that include
6 Salvadoran?

7 A. Yes.

8 Q. How are you familiar with the Salvadoran dialect?

9 A. They have -- -- can you rephrase the question for
10 me?

11 Q. What experiences have you had in which you have
12 become familiar with the Salvadoran dialect?

13 A. By working at the bank, I help with the customers
14 with their banking needs, their mortgage needs. And
15 then when I transferred to the FBI, I started working
16 with a lot of Central Americans and -- and different
17 other countries.

18 THE COURT: Can you rephrase the question?
19 I don't think she understood your question.

20 BY MR. TOBLER:

21 Q. Um --

22 THE COURT: His question had to do with your
23 familiarity with the Salvadorian dialect. Can you
24 explain that?

25 THE WITNESS: Yes. I started learning and

1 getting acquaintance with the language, with Salvadorian
2 slang, when I worked at Bank of America, because I had
3 many customers who were from El Salvador. And in order
4 for me to understand their needs, I had to get used to
5 the different type of Spanish they spoke to the one I
6 was used to.

7 BY MR. TOBLER:

8 Q. When you were hired by the FBI, were you required
9 to take any language proficiency exams?

10 A. I was.

11 Q. Did you successfully qualify to be a contract
12 language monitor?

13 A. Yes.

14 Q. What do you do as a -- as a contract language
15 monitor?

16 A. I do interpreting. I do summaries verbatim. I
17 do wire taps.

18 Q. What types of materials do you interpret?

19 A. CDs, audios, any type of audio, video.

20 Q. Do you interpret documents?

21 A. I do.

22 Q. Do you also conduct in-person interpretation?

23 A. Yes.

24 Q. And I believe you mentioned that you interpret
25 recordings as well.

1 A. I'm sorry?

2 Q. I believe you mentioned you interpret recordings
3 as well.

4 A. I translate recordings.

5 Q. When you translate, do you translate from Spanish
6 to English?

7 A. Yes.

8 Q. Do you also translate from English to Spanish?

9 A. Sometimes.

10 Q. What experience do you have translating Spanish
11 in the Salvadorian dialect?

12 A. Um, about seven years. I started with
13 Salvadorian Title III drug cases, MS-13 cases.

14 Q. When you were working on a wire tap, what were
15 your duties?

16 A. To listen to the call and to do a summary of the
17 call.

18 Q. Did you ever complete verbatim transcripts?

19 A. Not from T-IIIs.

20 Q. When you're working on a wire tap, approximately
21 how many hours per week are you listening to recordings?

22 A. At least 30.

23 Q. And just so we're clear, when you're listening to
24 the recordings, what language are the recordings in?

25 A. Spanish.

1 Q. And you are translating them into what English --
2 excuse me -- into what language?

3 A. English.

4 Q. And, how long -- how long does a wire tap
5 typically last?

6 A. It can go from 30 days up to six months or a
7 year, or even more.

8 Q. Approximately what percentage of your work
9 translating Spanish involves MS-13?

10 A. Fifty percent.

11 Q. In your experience, do people involved with MS-13
12 speak Spanish in a distinctive manner?

13 A. I'm sorry?

14 Q. In your experience, do people involved with MS-13
15 speak Spanish in a distinctive way?

16 A. Yes.

17 Q. How so?

18 A. Slang, different slang.

19 Q. How have you educated yourself to understand
20 Spanish as spoken by MS-13 members?

21 A. On the job.

22 Q. Could you please describe what you mean by "on
23 the job"?

24 A. On the job, just by listening to their
25 conversations and, just talking to other people who have

1 more experience.

2 Q. Who have you talked to, to help you understand
3 MS-13 slang?

4 A. I started with senior linguists at work. And, on
5 the first case I worked I actually spoke to somebody who
6 came from El Salvador to help us out.

7 Q. Who was that person who came from --

8 A. He was a task force officer from -- a gang task
9 force officer from El Salvador.

10 Q. Do you know what his position was in El Salvador?

11 A. I don't recall.

12 Q. Was he a member of Salvadoran law enforcement?

13 A. Yes.

14 MR. TOBLER: Your Honor, we would move that
15 the witness be recognized as an expert Spanish linguist,
16 with expertise in the Salvadorian dialect.

17 MR. LEIVA: Subject to cross-examination.

18 THE COURT: Subject to cross-examination,
19 she will be allowed to testify to a reasonable degree of
20 certainty in her field, as an expert in the Spanish
21 language with expertise in the Salvadorian dialect.

22 BY MR. TOBLER:

23 Q. Ma'am, please describe the process by which you
24 prepare a verbatim translation of a Spanish language
25 recording.

1 A. Sure. I'm given the recording. I will listen to
2 the recording from beginning to end the first time. The
3 second time around I'll take notes on the recording.
4 And then I'll start translating into English after --
5 after my notes.

6 Q. What do you do after -- well, let me ask you this
7 question first: What equipment do you use during that
8 process?

9 A. Start-Stop.

10 Q. What is Start-Stop?

11 A. Start-Stop is a system that allows me to pause
12 the recording with my foot. It makes -- leaves my hands
13 free so I'm able to type.

14 Q. Does that equipment alter the recording in any
15 way?

16 A. Not at all.

17 Q. Do you wear headphones when you're performing
18 translations?

19 A. I do.

20 Q. Do the headphones you wear alter the recordings
21 in any way?

22 A. Not at all.

23 Q. When you're translating, what do you do when you
24 come across a word that you do not understand?

25 A. I talk to my fellow colleagues, and I have them

1 listen to the recording to see if they could understand
2 it. If not, I try to, like, slow down the recording to
3 see if I can hear it better.

4 Q. What if you can hear the word but you don't
5 necessarily understand the meaning, or you have
6 questions about the meaning?

7 A. I will once again approach my colleagues, the
8 senior linguists who I work with, and sometimes I will
9 use the Internet.

10 Q. And, after you consult -- what role, if any, does
11 context play in helping you understand the meaning of a
12 word?

13 A. It depends on the type of conversation the
14 subject is having, like, what are they talking about.
15 Like the whole conversation has a lot to do with the
16 meaning of the word.

17 Q. When you're making an assessment of the meaning
18 of a word, who -- upon whose judgment do you ultimately
19 rely?

20 A. Mine.

21 Q. And in your experience, is it common practice for
22 a contract language monitor to rely on the resources you
23 just described when translating words or phrases?

24 A. Yes.

25 Q. What do you do after you've prepared a draft

1 translation?

2 A. I review it a couple more times to make sure I --
3 I'm happy with the results that I have.

4 Q. And what about after that?

5 Is there a -- is there a review process in place
6 for these --

7 A. Yes.

8 Q. -- translations?

9 A. Somebody else will review my work as well.

10 Q. Have you ever served as a reviewer for another
11 linguist's translations?

12 A. Yes.

13 Q. What do you do when you conduct a review of
14 another linguist's translations?

15 A. I review -- I listen to the conversation from
16 beginning to end. Then I get the document and I review
17 with the audio. I go with the audio.

18 Q. What do you do after that, as a reviewer?

19 A. Then I give it back to the linguist.

20 Q. What do you include with what you give back to
21 the linguist?

22 A. Suggestions. I help fill out the blanks, or
23 things that I understood better. I'll make suggestions
24 of what I hear and what I understand.

25 Q. When you're the original linguist, what do you do

1 when the review is complete?

2 A. I go over the -- the audio as well again, and I
3 review the corrections that have been made. And if I
4 agree with the corrections, I will take them. If I
5 don't agree with the corrections, I will keep what I
6 have written.

7 Q. By the time you complete the entire process,
8 approximately how many times have you listened to the
9 recording that you are translating?

10 A. About ten.

11 Q. As part of this case, were you asked to perform
12 Spanish to English translation services?

13 A. Yes.

14 MR. TAYLOR: With the assistance of
15 Mr. Toliver, I would like to show you what has been
16 marked in the exhibit binders for identification as
17 Government's Exhibit 8-A, 9-A and 22-A.

18 BY MR. TOBLER:

19 Q. Do you recognize these exhibits, ma'am?

20 A. Yes, I do.

21 Q. What are they?

22 A. They are the recordings.

23 Q. Recordings of what?

24 A. Of conversations.

25 Q. Were these recordings -- were these conversations

1 translated?

2 A. Yes.

3 Q. By whom?

4 A. By me.

5 Q. How do you recognize these exhibits?

6 A. I have my initials on the CDs.

7 Q. What did you do before initialing those CDs?

8 A. I sat down and I listened to the recording and I
9 read the document.

10 Q. When you say "the document," what document are
11 you referring to?

12 A. The translations.

13 Q. Please turn, if you would, in the binder to
14 Government's Exhibits 8-A-1, 9-A-1, and 22-A-1.

15 Did you have an opportunity to see all of them?

16 A. Yes.

17 Q. Do you recognize these exhibits?

18 A. Yes.

19 Q. What are they?

20 A. They're CDs.

21 Q. I'm actually asking you to look at Government's
22 Exhibit 8-A-1, so the dash-1 afterwards.

23 A. Oh, I'm sorry.

24 Q. No problem.

25 It should be behind the disks, I believe.

1 A. Oh, I see. Sorry. Thank you. Got it. Thanks.

2 Q. Feel free to take them out.

3 A. Okay. Thank you.

4 Q. Is that 8-A-1?

5 A. Yes.

6 Q. Please also review 9-A-1.

7 And then, lastly, please review 22-A-1.

8 A. Sorry.

9 Q. No need to apologize. Thank you.

10 A. Thank you, sir.

11 Okay. Yes.

12 Q. Do you recognize Government's Exhibits 8-A-1,
13 9-A-1 and 22-A-1?

14 A. I do.

15 Q. What are they?

16 A. These are my translations.

17 Q. What is Government's Exhibit 8-A-1 a translation
18 of?

19 A. Conversations.

20 Q. And, where are those conversations located?

21 Are those the conversations that are in
22 Government's Exhibit 8-A?

23 A. Yes.

24 Q. What is Government's Exhibit 9-A-1 a translation
25 of?

1 A. Conversations.

2 Q. The conversations in Government's Exhibit 9-A?

3 A. Yes.

4 Q. What is Government's Exhibit -- well, is
5 Government's Exhibit 22-A-1 a translation of
6 Government's Exhibit 22-A?

7 A. Yes.

8 Q. When you created these translations, did you
9 follow the process you described previously in your
10 testimony?

11 A. I did.

12 Q. Do these translations identify the speakers in
13 the recordings?

14 A. Some.

15 Q. Was it part of your translation responsibility to
16 identify the actual speakers in these recordings?

17 A. No.

18 Q. What was the source of that information?

19 A. It was given to me.

20 Q. Do you have personal knowledge -- who gave it to
21 you?

22 A. The case agent.

23 Q. Do you have personal knowledge of where the case
24 agent got that information?

25 A. No.

1 Q. On the first page of each translation, is there
2 information about the time and date of the call?

3 A. Yes.

4 Q. Where does that information come from?

5 A. The CD.

6 Q. Other than the information we just discussed,
7 including the identity of the speakers, are these
8 translations your own work product?

9 A. Yes.

10 Q. As preparation for your testimony, have you
11 reviewed Government's Exhibit 8-A-1, 9-A-1, and 22-A-1,
12 and compared their contents against Government's
13 Exhibits 8-A, 9-A and 22-A?

14 A. Yes.

15 Q. Based on your training and experience, is
16 Government's Exhibit 8-A-1 a true and accurate
17 translation of the contents of 8-A?

18 A. Yes.

19 Q. Based on your training and experience, is
20 Government's Exhibit 9-A-1 a true and accurate
21 translation of the contents of 9-A?

22 A. Yes.

23 Q. Based on your training and experience, is
24 Government's Exhibit 22A-1 a true and accurate
25 translation of the contents of 22-A?

1 A. Yes.

2 MR. TOBLER: Your Honor, at this time the
3 government moves for admission of Government's
4 Exhibits 8-A, 8-A-1, 9-A, 9-A-1, 22-A, and 22-A-1,
5 conditional upon the government establishing the
6 evidence as relevant.

7 MR. AQUINO: Judge, renew the same
8 objection.

9 THE COURT: All right. Subject to the
10 objection, the standing objection concerning these
11 transcripts, concerning whether or not they are verbatim
12 whether or not -- whether they're relevant, and whether
13 or not the translation as related to gang dialect are
14 accurate, they will be received.

15 MR. TOBLER: No further questions, Your
16 Honor.

17 CROSS-EXAMINATION

18 BY MR. LEIVA:

19 Q. Good afternoon, Ms. Vargas.

20 A. How are you?

21 Q. So, you're Bolivian?

22 A. Yes.

23 Q. *Pacena?*

24 A. I'm sorry?

25 Q. *Pacena?*

1 A. Yes.

2 MR. LEIVA: That's p-a-c-e-n-a.

3 BY MR. LEIVA:

4 Q. Am I correct, then, to infer that you were raised
5 in Bolivia?

6 A. Yes.

7 Q. Okay. How old were you when you came to the
8 United States?

9 A. Eleven.

10 Q. Eleven years old. All right.

11 Okay. So you were mostly raised here in the
12 States, then, not Bolivia?

13 A. Well --

14 Q. Or half-half?

15 A. Half.

16 Q. Half-half; I'll take that.

17 And, Ms. Vargas, the Spanish -- and I know this
18 is going to sound like a silly question, but I need to
19 ask it. The Spanish that you learned was in Bolivia.

20 A. Yes.

21 Q. All right. And, just so you know, I'm half
22 Salvadoran and half Bolivian.

23 A. Okay.

24 Q. So, the -- the Spanish that you learned, I think
25 we established was in Bolivia, right?

1 A. Yes.

2 Q. And, within Latin America, would you agree that
3 the Spanish spoken in Bolivia tends to have the
4 reputation of being the truest form of Spanish, in the
5 sense that it follows all the correct grammatical rules
6 in Spanish?

7 You've never heard that before?

8 A. No.

9 Q. Okay. All right. Would you agree with me that
10 the Spanish spoken in Bolivia tends to have very little
11 slang?

12 A. No.

13 Q. All right. Would you agree with me that the
14 Spanish spoken by Salvadorians is laden with slang?

15 (Pause.)

16 Well, let me ask it this way: You testified on
17 direct --

18 THE COURT: I'm sorry. I didn't hear an
19 answer. Did you answer?

20 THE WITNESS: No, Your Honor, I didn't.
21 He's going to --

22 MR. LEIVA: Well, let me rephrase it then.

23 BY MR. LEIVA:

24 Q. Salvadorian Spanish -- the way Salvadorians speak
25 Spanish, they use a lot of slang, do they not?

1 A. Not all of them.

2 Q. That's not what I asked you. I didn't ask you,
3 all of them. I asked you if -- if the Spanish spoken by
4 Salvadorians, if they tend to use a lot of slang?

5 A. Yes.

6 Q. Okay. And, the reason I'm asking that, because
7 when you testified on direct, when counsel was eliciting
8 your experience with Salvadorians, you used the phrase
9 "it took some getting used to."

10 A. Correct.

11 Q. All right. So, if your position today is that
12 they don't really use a lot of slangs, what were you
13 getting used to?

14 A. May I answer?

15 Q. Yes.

16 A. Okay. So, they speak -- for -- for my Spanish,
17 it was just they used different words for different
18 things that I would use a different word for.

19 Q. All right. So you're saying that the dialect is
20 different?

21 A. The dialect is different.

22 Q. All right. And the words that they used, they
23 tended to be slang words; would you agree with that?

24 A. Yes.

25 Q. Okay. And so, even in the setting as simple as

1 you dealing with someone's banking issues, initially you
2 had difficulty understanding them?

3 A. Yes.

4 Q. And I'm assuming that when people came to you
5 seeking assistance for banking issues, they weren't
6 talking in gang slang, right?

7 A. No.

8 Q. Right.

9 And, you would think that someone that's coming
10 to seek assistance for banking issues would try to use
11 little slang when dealing with someone professional, as
12 yourself?

13 A. Yes.

14 Q. All right. But, what you found is, even that the
15 Spanish that they used -- they were using -- let's --
16 let me characterize it as they cleaned up their Spanish,
17 was still difficult initially for you to understand?

18 A. Initially.

19 Q. And, you would agree that throughout Latin
20 America there are differences in dialect, right?

21 A. Yes.

22 Q. And, words have different meanings?

23 A. Yes.

24 Q. Okay. Now, if you would indulge me here. I tend
25 to be more of a hands-on type of learner. Either I need

1 to see things or hear things. And if I may play a clip
2 for you, all right, and if you can tell the members,
3 ladies and gentlemen of the jury and Judge Lee whether
4 this is a correct analogy of someone from Bolivia
5 listening to someone from El Salvador speak, all right?
6 If I may.

7 A. Okay.

8 Q. What I'm going to play to you is someone from
9 Liverpool, England, speaking English. And you let me
10 know if you think that's an appropriate analogy.

11 MR. TOBLER: Your Honor, we would object to
12 the relevance of the analogy.

13 MR. LEIVA: I think it's an example, because
14 right now we're talking abstract.

15 MR. TOBLER: We would also object to it
16 being published to the jury without her having a chance
17 to listen.

18 THE COURT: I think he's going to let her
19 listen to something now.

20 MR. LEIVA: Yeah, I was going to play it
21 right now.

22 THE COURT: Well, she's an expert, so
23 experts can be asked that type of question. Objection
24 overruled.

25 (Audio played.)

1 BY MR. LEIVA:

2 Q. Would you say that's a fair analogy?

3 MR. TOBLER: Your Honor, we would again
4 renew our objection. This isn't English language. And
5 it's being published before the jury without her
6 having --

7 MR. LEIVA: Well, she --

8 THE COURT: I'm sorry. I'm sorry.

9 What's your objection?

10 MR. TOBLER: It's being published without --
11 before the jury without her having an opportunity to
12 hear it first.

13 We would object to the relevance. He's
14 playing something, from, I believe he said it was from
15 Liverpool. I don't see why that is relevant, given the
16 fact that we're talking about Spanish, Spanish language
17 testimony.

18 MR. LEIVA: Your Honor, it's a simple yes or
19 no answer. She can say yes, it is analogous to what
20 someone from Bolivia would -- would -- when listening to
21 someone speaking Salvadorian sounds like, in English
22 terms, or she can just say no, it's not a proper
23 analogy.

24 THE COURT: Objection overruled.

25 THE WITNESS: I'm sorry?

1 BY MR. LEIVA:

2 Q. So, you are an English speaker, right?

3 A. Yes.

4 Q. And I just played a clip of someone from
5 Liverpool speaking English as they do in Liverpool.

6 A. Yes.

7 Q. All right. Now, someone who is Bolivian, South
8 American, speaking -- or hearing someone from El
9 Salvador speak, would you say that the analogies are
10 kind of the same, that initially you don't catch things
11 and you kind of have to listen hard to understand what's
12 being said by a Salvadorian, someone with your
13 background, initially from Bolivia?

14 A. Yes. And if I may give an example, it's -- well,
15 it's like if you take somebody from Boston and send them
16 to the deep South, you know, he gets in his car and he
17 goes to the South, within a week, within a few days,
18 he'll be able to understand.

19 So, yes, I'm Bolivian, but if you give me a
20 recording and I'm working on this for so many years, I
21 will be able to understand.

22 Q. All right. So, you're saying at some point you
23 start to hear and fine-tune certain things?

24 A. Yeah. I have the ear for it.

25 Q. Okay. So, let's go to -- before we get to the

1 actual translations, let me jus ask you some very basic
2 questions about your background.

3 A. Sure.

4 Q. Are you a member of the American Translators
5 Association?

6 A. No.

7 Q. Are you a member of the International Association
8 of Professional Translators and Interpreters?

9 A. No.

10 Q. Are you a member of the National Capital Area
11 Translators Association?

12 A. No.

13 Q. Are you member of the National Association for
14 Interpretation?

15 A. No.

16 Q. Are you certified to provide interpretation or
17 translating services in federal court?

18 A. No.

19 Q. Before testifying here today, did you talk to any
20 of your colleagues who testified here previously?

21 A. Yes.

22 Q. Okay. Who did you speak with?

23 A. My colleagues.

24 Q. No, who?

25 Ms. D'Sa --

1 A. Ms. D'Sa.

2 Q. Ms. D'Sa. And, she told you about what she
3 testified here today?

4 A. No.

5 Q. Okay. Did she tell you about what kind of
6 questions were asked of her?

7 A. No.

8 Q. All right. What, if anything, did she say about
9 her experience here in court?

10 A. She was nervous.

11 Q. She was nervous. All right.

12 And how did that topic come up between you and
13 Ms. D'Sa?

14 A. We are colleagues. We have -- we do a lot of
15 work together, so we have to talk at least once a day.

16 Q. I understand that.

17 But did you approach her and say, "Hey, how did
18 it go in court," or did she just volunteer that
19 information to you?

20 A. It just came out, out of the conversation.

21 Q. And she didn't expand on why she was nervous?

22 A. No.

23 Q. She just left it at that, "I was nervous."

24 A. Yeah.

25 Q. How many times did you testify that you reviewed

1 these recordings before you were okay with the final
2 product?

3 A. About ten.

4 Q. Ten times. Okay.

5 If I could have you look at Government's
6 Exhibit 8-A-1.

7 Do you have that in front of you?

8 A. I do.

9 Q. Okay. And, this is a -- a recording that you
10 reviewed, correct?

11 A. Yes.

12 Q. All right. And it's a recording that you
13 reviewed at least ten times?

14 A. Yes.

15 Q. Okay. All right. Now, we've -- the jury has
16 heard some -- some questions about this word "*loco*,"
17 right?

18 What does the word "*loco*" mean to you?

19 A. I'm sorry?

20 Q. What does the word "*loco*" mean to you?

21 A. Homeboy.

22 Q. "*Loco*" --

23 A. Like a buddy.

24 Q. "*Loco*" means homeboy?

25 A. Like a buddy.

1 Q. All right. So, when someone says to you, "Hey, I
2 don't speak Spanish, but my buddy just said hey -- he
3 used the term 'loco' on me," your first response is that
4 it means homeboy?

5 A. Buddy, yeah, my friend, my buddy.

6 Q. Well, hold on. Buddy and homeboy are two
7 different things.

8 A. Depends on the context.

9 Q. All right. Does it -- so you say it depends on
10 the context. So when you were reviewing this audio
11 recording, were you told that this was an MS-13 case?

12 A. No, not at first.

13 Q. Not at first.

14 When did you get involved with listening to
15 recordings about this case?

16 A. When?

17 Q. Yeah, when.

18 A. I think September.

19 Q. September of 2014?

20 A. No, last year, 2015.

21 Q. 2015?

22 A. Yeah.

23 Q. Okay. And so when you initially started
24 listening to these audio recordings, you were not told
25 that it was an MS-13 case?

1 A. I knew -- when did I --

2 THE COURT: I'm sorry? You didn't complete
3 your answer. I couldn't hear you.

4 THE WITNESS: I'm sorry, Your Honor. I'm
5 thinking, because I do a lot of cases --

6 THE COURT: Okay. All right.

7 THE WITNESS: -- at the same time, so --
8 yeah, I work a lot of cases at the same time.

9 Um, I think when I started was September --
10 August, September.

11 BY MR. LEIVA:

12 Q. Okay. All right.

13 THE COURT: Of what year?

14 THE WITNESS: Last year.

15 THE COURT: Thank you. 2015.

16 THE WITNESS: 2015.

17 BY MR. LEIVA:

18 Q. All right. If I could draw your attention to
19 page two of that exhibit, Government's 8-A-1. And if we
20 could go down to the fourth line with "OC," do you see
21 that?

22 A. On page two?

23 Q. Page two, yes, ma'am.

24 A. And what did you say again? "OC"?

25 Q. I guess your -- your page is probably different

1 than -- it may appear to be -- it would be, I guess,
2 your page four.

3 A. Okay.

4 Q. It would be the sixth line down, starting with
5 "OC," with, "Yeah, man."

6 Do you see that?

7 A. I see it.

8 Q. Okay. If I could play you the recording of that
9 section.

10 MR. LEIVA: If I may, Your Honor?

11 THE COURT: Go ahead.

12 BY MR. LEIVA:

13 Q. And what I'm specifically asking you to look for
14 is -- or to listen for is the word "loco"?

15 A. Okay.

16 Q. Okay?

17 (Audio played.)

18 Did you hear that?

19 A. No, I'm sorry. Could you play it again.

20 Q. Yes.

21 I'll go back a little further for you.

22 A. Thank you.

23 (Audio played.)

24 Q. Did you hear the word "loco"?

25 A. I'm sorry. Could you play it one more time,

1 please?

2 Q. Yes.

3 (Audio played.)

4 Q. Did you hear the word "locos"?

5 A. I did.

6 Q. And, you transcribed "locos" in that context as
7 dudes, right?

8 A. Yes.

9 Q. Okay. Let me have you go down to the bottom, the
10 last statement that's made, that starts with "homie."

11 A. Okay.

12 (Audio played.)

13 Q. All right. And you heard the actual word "homie"
14 being said, right?

15 A. Yes.

16 Q. Okay.

17 (Pause.)

18 Let me play another section -- another -- well,
19 let me do this, Let me do this, rather than go through
20 every single "loco" that's there. So just on that page
21 alone --

22 A. Uh-huh.

23 Q. -- all right, on a transcript that you claim that
24 you reviewed ten different times -- right?

25 A. Yes.

1 Q. Well, sorry. Strike that.

2 Let me have you just listen to one more, okay?

3 The word "loco."

4 (Audio played.)

5 Q. Did you hear the word "loco"?

6 A. I did. But what page are you on?

7 Q. Excuse me?

8 A. What page were you on?

9 Q. I'm sorry. It's the same page that we were on --
10 I'm sorry. It's -- it's -- let me look at yours,
11 because ours are different.

12 It would be your page six -- actually, go back.
13 It's the beginning of your page five. I don't know why
14 our -- what you have and what I have are misnumbered.
15 So it would be your page number five.

16 A. Okay.

17 Q. Okay? So, if you go down to your page number
18 five, down one, two, three, four, five, six, seven,
19 eight, nine, ten, the tenth person that's speaking,
20 "OC".

21 A. Okay.

22 Q. Which starts, "Imagine the big..."

23 A. Okay.

24 Q. That's what I'm going to play for you.

25 (Audio played.)

1 Q. Do you hear the word "locos"?

2 A. I did.

3 Q. Okay. So, here's my question, Ms. Vargas: So,
4 you heard what was on your page number four and number
5 five. On page number four, they initially use "locos"
6 and you translate that as dudes, right?

7 A. Yes.

8 Q. Okay. Then at the bottom of that page, they use
9 the word "homie," and you translate that correctly to
10 homie?

11 A. Yes.

12 Q. And then on the next page they use "locos" again,
13 and you translate that to homies.

14 A. Yes.

15 Q. All right. Why the inconsistencies, if you
16 reviewed this ten times?

17 A. Because they're talking about their buddies,
18 they're talking about their friends.

19 Q. But, listening to these MS-13 tapes, as you've
20 claimed that you have experience, you know that a
21 homeboy and a homie has special status within the gang?

22 A. Yes.

23 Q. Okay. And, you correctly noted that when someone
24 used the word "homie," you attribute that in your
25 transcript, that they used the word "homie"?

1 A. Yes.

2 Q. But, then when someone uses a term other than
3 "homie," like "loco," you assign the definition of homie
4 to that, or homeboy to that?

5 A. Yes.

6 Q. Right. That's my question: Why the
7 inconsistency?

8 A. Because I use them both as homie and as a buddy,
9 my buddy, my pal.

10 THE REPORTER: Can you repeat that?

11 THE WITNESS: I'm sorry?

12 THE COURT: Can you repeat your answer,
13 please?

14 THE WITNESS: Yes, sir.

15 I used it both as my homie, my buddy, my
16 friend, my buddy, my pal.

17 BY MR. LEIVA:

18 Q. And, are you familiar with the word "vato"?

19 A. Yes.

20 Q. And what does "vato" mean?

21 A. It's similar, like my buddy, my homeboy.

22 Q. Okay. My friend, my dude, right?

23 A. Yes.

24 Q. But, in this case, when someone use the word
25 "vato," you assigned homeboy to that.

1 (Pause.)

2 You want me to play it for you?

3 A. Sure.

4 Q. Okay. Same page, the next line, underneath the
5 one that we just listened to.

6 A. I'm sorry, what page was that again?

7 Q. The same page, that would be your --

8 A. Five?

9 Q. Your five, right.

10 So I'll play it for you. I'll start a little
11 back.

12 A. Okay.

13 (Audio played.)

14 Q. All right. So, did you hear the word "vato"
15 being used, two times?

16 A. I did, but, let me --

17 Q. And in one of them, you translated "vato" as
18 being man, and in the other one, you translated it as
19 homeboy.

20 THE COURT: Is that a question?

21 MR. LEIVA: Yes. Well, no, that's not a
22 question.

23 BY MR. LEIVA:

24 Q. My question is, again, there seems to be
25 inconsistency here. Did someone else review this and

1 make changes without -- without your permission?

2 A. Well, somebody else did review it, and I reviewed
3 with the changes and I'm the one that made the final
4 decisions on it.

5 Q. So, can you explain to us, then, why two people
6 reviewed this, and within just that one segment
7 attribute different meaning to the word "*vato*"?

8 (Pause.)

9 Do you have an explanation or --

10 THE COURT: Let her answer.

11 THE WITNESS: I'm sorry?

12 THE COURT: We're waiting for your answer.

13 THE WITNESS: Yes. Thank you, sir.

14 To me, they're talking to their friends, so
15 therefore, "*vato*" is my homeboy, my buddy. And, I used
16 different words for it, but at the end it's the same
17 meaning, because they're talking about their friends.

18 BY MR. LEIVA:

19 Q. But, there's no concern about keeping things
20 consistent, so if someone who is not a native Spanish
21 speaker, just doesn't speak Spanish at all, just reads
22 that one page, and you've given one, two -- two to three
23 definitions for the same word.

24 A. I did.

25 Q. When you said you consulted with your colleagues,

1 did you ever consult with someone by the name of Junior?

2 A. No.

3 Q. All right. Or someone that said that they were
4 Officer Junior?

5 A. No.

6 Q. Did you ever consult with anyone by the name of
7 Osman Alfaro Fuentes?

8 A. No.

9 Q. Anyone by the name of Jose Del Cid?

10 A. No.

11 Q. Or by the moniker, Duende?

12 A. No.

13 Q. Anyone named Genaro Sen Garcia?

14 A. No.

15 Q. Anyone with the last name Santiago Villanueva?

16 A. No.

17 Q. Did you consult with any gang members at all --

18 A. No.

19 Q. -- or who you were told were gang members?

20 A. No.

21 Q. What about a gentleman named Jose Aparicio
22 Garcia?

23 A. No.

24 Q. So as far as outside references go, you mentioned
25 that you went on the Internet, right?

1 A. Yes.

2 Q. Okay. And, the people who you also consulted who
3 you say were your colleagues, who were they?

4 A. Senior linguists.

5 Q. Who? Which linguists?

6 A. The ones that work with me at my office.

7 Q. Well, I'm asking. I don't know who works with
8 you.

9 A. Oh. You need names?

10 Q. That would be fine.

11 A. America Leister.

12 Q. She's the only one?

13 A. Basically.

14 Q. Okay. So, in this case, how many times do you
15 believe you consulted with Ms. Leister?

16 A. A couple of times. I wouldn't be able to tell
17 you an exact number.

18 Q. All right. So, in other words, even though
19 you've been listening to some MS-13 recordings, you
20 still sometimes would hit a point where certain words
21 were not recognizable to you?

22 A. Or I just wanted to make sure I was listening to
23 the right thing.

24 Q. Now, you testified on direct that you would
25 listen to these audio recordings and that you would

1 provide summaries of these audio recordings.

2 A. Not from this.

3 Q. Excuse me?

4 A. From what audio recordings?

5 Q. Well, from the wire taps that you testified to,
6 you would provide summaries.

7 A. Yes.

8 Q. Okay. And you would provide summaries to the
9 agents working the case?

10 A. Yes.

11 Q. And, so, it would be fair to say that the bulk of
12 your work as a contractor for the FBI as a linguist is
13 to provide the agents with -- with translations as soon
14 as humanly possible?

15 A. Yes.

16 Q. Right?

17 Because, they're listening to wire taps, they may
18 not know what's being said and they need somebody to
19 tell them right away what's being said.

20 A. Yes.

21 Q. Okay. So when you're compiling these
22 transcripts, your target audience is the FBI agents.

23 A. Yes.

24 Q. All right. It's not necessarily that it's going
25 to be used in court. It's to have the agents have them

1 at their disposal?

2 A. Yes.

3 Q. Okay. And so, when you're preparing these, for
4 example, the words that we just covered, the words
5 "vato" and "loco," you put that MS-13 spin on them
6 because it's for the agents to review?

7 A. I'm sorry. Can you repeat that again?

8 Q. Yes. So, given that the bulk of your work is to
9 provide these agents with realtime translations of the
10 wire taps that they're listening to, or recording,
11 right, and not so much that you're concerned
12 about being -- it being used in court, when certain
13 words come up like "vato" and "loco," you're putting
14 that MS-13 spin on them just so you keep somewhat
15 consistent -- keep it somewhat consistent for the
16 agents. Does that make sense or not?

17 MR. TOBLER: Objection, Your Honor.
18 Compound question.

19 THE COURT: It is. If you would do them one
20 at a time, Mr. Leiva.

21 MR. LEIVA: Yes, Your Honor.

22 BY MR. LEIVA:

23 Q. We've established that you prepare summaries for
24 the case agents when they give you these wire taps.

25 A. Yes.

1 Q. And we've established that the target audience of
2 your summaries are the case agents.

3 A. Yes.

4 Q. And, at some point during this case you realized
5 that this was an MS-13 case?

6 A. But --

7 Q. Upon listening to these wire taps, you realized
8 it was an MS-13 case, or someone told you it was an
9 MS-13 case?

10 A. Yes.

11 Q. Okay. So then, to keep things consistent, any
12 terms that you heard which may be neutral in nature, you
13 put an MS-13 spin on them. Would that be fair to say?

14 A. No.

15 Q. Okay. So, when we went over these terms of
16 "*vato*" and "*loco*," which you agree means buddy -- or you
17 used the word "buddy," I used the word "dude" --

18 A. Uh-huh.

19 Q. -- you translated that as homeboys, right?

20 A. Yes.

21 Q. For the most part.

22 A. Yes.

23 Q. All right. And, that was done because you
24 thought that was the correct and accurate translation of
25 that word, or did you do it because you knew the agents

1 were dealing with an MS-13 case?

2 A. Because I thought it was a more closely related
3 word to the Spanish word --

4 Q. So --

5 A. -- based on the conversation.

6 Q. Between MS-13 members?

7 A. Between my -- the two people that were speaking.

8 Q. Okay. But here's where -- and I'm not going to
9 keep beating a dead horse, but here is where I'm getting
10 confused. Is that your testimony under oath is that the
11 word "loco" in Spanish means homeboy, and the word
12 "vato" in Spanish means homeboy. That's what I'm
13 getting from what you're just telling me.

14 THE COURT: If you could ask one question at
15 a time, that might help.

16 MR. LEIVA: Yes, Your Honor. I apologize.

17 THE COURT: Ask one question.

18 MR. LEIVA: Yes.

19 BY MR. LEIVA:

20 Q. So your testimony is that the correct and
21 accurate translation of "loco" is homeboy?

22 A. Yes.

23 Q. Okay. And the correct and accurate translation
24 of "vato" is homeboy?

25 A. Depends on the context.

1 MR. LEIVA: That's all the questions I have,
2 Your Honor.

3 Thank you, Ms. Vargas.

4 CROSS-EXAMINATION

5 BY MR. AQUINO:

6 Q. Good afternoon, ma'am.

7 A. Hello.

8 Q. My name is Jerry Aquino. Along with my
9 co-counsel, Ms. Amato, we represent Jesus Chavez. I
10 just have a few questions for you.

11 A. Sure.

12 Q. Would you agree that translating is neither black
13 nor white?

14 A. Can you repeat that again, please?

15 Q. Sure. Would you agree that translating is
16 neither black nor white?

17 A. Yes.

18 Q. And it requires your opinion to give meaning; is
19 that accurate?

20 A. No.

21 Q. Explain.

22 A. Because when you're translating, you're
23 translating on what you're listening to, not -- you're
24 not trying to make a meaning out of it. So, you
25 translate what they're saying.

1 Q. But, you get meaning from different sources,
2 correct?

3 A. Explain, please.

4 Q. For example, I believe you testified that you
5 consulted a law enforcement officer from El Salvador; is
6 that correct?

7 A. Many, many years ago, yes.

8 Q. Do you remember his name?

9 MR. TOBLER: Objection.

10 BY MR. AQUINO:

11 Q. I'm not asking that you repeat it. Do you
12 remember his name?

13 A. It was years ago. I'm sorry.

14 Q. And he provided you assistance in forming
15 opinions; is that accurate?

16 A. No. He provided me assistance on vocabulary
17 terms.

18 Q. Vocabulary terms.

19 And you don't know anything about any biases that
20 officer might have had before -- in discussing his
21 vocabulary with you, do you?

22 A. No.

23 Q. Okay. And he works -- he worked for law
24 enforcement, right?

25 A. Yes.

1 Q. And, you work for law enforcement; is that
2 accurate?

3 A. Yes.

4 Q. Now, is there a difference in language and
5 pronunciation between San Salvador, the capital of El
6 Salvador, and San Miguel?

7 A. I don't know.

8 Q. Have you spent an extended period of time in El
9 Salvador?

10 A. No.

11 Q. Have you spent a day in El Salvador?

12 A. No.

13 Q. Now, earlier you testified that there was a
14 review process --

15 A. Yes.

16 Q. -- correct?

17 A. Yes.

18 Q. Okay. Did you make notes along the way?

19 A. If I -- from --

20 Q. Notes in the course of your review process, for
21 example, like a rough draft?

22 A. On the computer.

23 Q. Okay. And, did you keep any of the rough drafts
24 that --

25 A. No.

1 Q. -- you went through?

2 A. No.

3 Q. Those were all erased?

4 A. It's on the computer, same paper.

5 Q. But, I mean, they no longer exist?

6 A. They don't.

7 Q. Okay. And in terms of guidance you received, you
8 said you get some guidance through the Internet. Is
9 that accurate?

10 A. Yes.

11 Q. Okay. How often, for example, in an average week
12 do you go on the Internet?

13 A. For what purpose?

14 Q. To help you with your job.

15 A. Five times a day.

16 Q. Five times a day.

17 And, do you use any translation service provided
18 over the Internet to assist you?

19 A. No.

20 Q. Is it normal for someone in your office to use a
21 translation service provided over the Internet?

22 A. Yeah.

23 Q. Okay. You don't use it?

24 A. What type of service do you mean? Like if I type
25 in a word in Spanish and use the English?

1 Q. Yes.

2 A. Of course I do.

3 Q. So you use that, too.

4 And in terms of seeking guidance, you -- I
5 believe you got some guidance from Ms. Leister; is that
6 accurate?

7 A. Yes.

8 Q. Do you speak to her daily?

9 A. Yes.

10 Q. Do you solicit her advice daily?

11 A. Yes.

12 MR. AQUINO: That's all the questions I
13 have.

14 Thank you, Judge.

15 THE WITNESS: Thank you.

16 CROSS-EXAMINATION

17 BY MS. MARTELL:

18 Q. Good afternoon, Ms. Vargas.

19 A. Hello.

20 Q. How are you?

21 A. Good. How are you?

22 Q. You testified that your job at the FBI is
23 contract language monitor; is that correct?

24 A. Yes.

25 Q. And, that's different than being a contract

1 linguist, correct?

2 A. Yes.

3 Q. And if you were to take a look at that
4 Exhibit 8-A that you have in front of you -- do you
5 still have that?

6 A. Yes, I do.

7 Q. If you look at the first page, the one with the
8 exhibit sticker --

9 A. Yes.

10 Q. -- it says, middle of the page, "Name and office
11 of linguist: CLM Vania Vargas." CLM, that stands for
12 contract language monitor, correct?

13 A. Linguist monitor.

14 Q. And, that's different, also, than a language
15 analyst, an LA, correct?

16 A. It's the same thing.

17 Q. A language analyst is a full-time employee with
18 the FBI?

19 A. Yes, a contractor.

20 Q. You're an independent contractor, correct?

21 A. Yes.

22 Q. And, you're aware of FBI regulations and rules
23 concerning your position?

24 A. Yes.

25 Q. Are you also aware, then, a contract language

1 monitor differs from a contract linguist in their job
2 description, correct?

3 A. Yes.

4 Q. And that's because a contract language monitor,
5 as yourself, they're to perform only summary
6 translations, correct?

7 A. Yes.

8 Q. Not verbatim translations?

9 A. Yes.

10 Q. And they're not supposed to testify in court,
11 either, right?

12 A. Yes.

13 Q. To follow up on what Mr. Leiva asked you
14 regarding the word "loco," l-o-c-o, the word "loco"
15 means, literally, crazy, correct?

16 A. Correct.

17 Q. However, like many words, it's also used as a
18 slang term, correct?

19 A. Yes.

20 Q. And in slang terminology, "loco" can mean dude,
21 correct?

22 A. Yes.

23 Q. However, during the portion that Mr. Leiva showed
24 you of your -- of the transcript that you prepared, you
25 translated the word "loco" both as dude in one part and

1 homie in another, correct?

2 A. Yes, correct.

3 Q. Am I correct, then, as well, that -- but you
4 didn't mean anything different by that. You meant it as
5 just dude, or, my buddy, as you testified, correct?

6 A. Yes.

7 Q. There was no MS-13 connection, correct?

8 A. I translate whatever they say. I put it in
9 Spanish. So, it doesn't matter if they're MS-13 --
10 bless you, sorry. If they're MS-13, drug deals,
11 whatever it is, I'm not looking to make up something.
12 I'm just doing a translation of what they're saying, not
13 what they're meaning.

14 Q. Correct.

15 Because you don't know if the speakers -- you
16 don't know the speakers of this audio.

17 A. No.

18 Q. And you don't know if they're MS-13 members,
19 homeboys, correct?

20 A. Correct.

21 Q. I also -- I want to play for you another part of
22 this. And if you can turn your attention to that page
23 five that you were looking at earlier.

24 A. Sure.

25 Q. Middle of the page, seventh th speaker, JR.

1 A. Okay.

2 Q. Go ahead and take a listen.

3 (Pause.)

4 MS. MARTELL: Court's indulgence. Try not
5 to get the microphone so you can hear this.

6 (Audio played.)

7 THE WITNESS: I can't hear it.

8 (Audio played.)

9 THE WITNESS: I could barely hear it.

10 MS. MARTELL: Let's play it one more time.

11 (Audio played.)

12 BY MS. MARTELL:

13 Q. Did you hear that?

14 A. I did.

15 Q. Okay. Did you hear the word "*fierro*?"

16 A. I did.

17 Q. F-i-e-r-r-o?

18 A. I did.

19 Q. What is "*fierro*"?

20 A. A gun.

21 Q. Isn't it true that "*fierro*" means knife in slang?

22 A. Could be.

23 Q. Do you ever consult glossaries?

24 A. Yes, I do.

25 Q. And, have you ever consulted a glossary that the

1 FBI has regarding MS-13 -- an MS-13 glossary with
2 different words and their meanings?

3 A. Not one from -- I consulted a glossary made by my
4 colleague, but --

5 Q. And which colleague was that?

6 A. Sandy D'Sa.

7 Q. And Ms. D'Sa's glossary, isn't it true that the
8 word "*fierro*" is defined as a weapon, knife or machete?

9 A. I don't recall.

10 Q. Have you ever heard the word "*fierro*" used as
11 weapon?

12 A. Just as -- as a translation, *fierro* to weapon?

13 Q. Yes.

14 A. No.

15 Q. There's another term that we heard in that, and
16 it was "*sale barba*," first word s-a-l-e, second word
17 b-a-r-b-a.

18 What does that term mean to you?

19 A. Depending on the -- once again, depends on the
20 context, how it will translate into English.

21 So, you would have to play it for me again so I
22 can hear it.

23 (Audio played.)

24 A. It will catch up to you.

25 Q. In this translation you translated it, however,

1 as, "it will backfire," correct?

2 A. Okay. I can't -- I can't -- I'm not being able
3 to follow my writing right now, but, yeah.

4 Q. You also translated it in the same page as
5 consequences, correct?

6 A. Can you tell me exactly what you are reviewing?

7 Q. We're looking at page five --

8 A. Uh-huh.

9 Q. -- the 13th speaker.

10 A. Yes.

11 Q. Do you see that translation there?

12 A. I see it.

13 Q. Okay. And then again, the following page, third
14 speaker?

15 A. Okay.

16 Q. Translated there again as, where it says third
17 speaker in the middle, "You know what I mean about the
18 entire problem."

19 MR. TOBLER: Objection, Your Honor. I don't
20 think she was allowed to hear it.

21 MS. MARTELL: I'll play it again if you
22 want. She just heard it.

23 THE COURT: Play it again.

24 (Audio played.)

25

1 BY MS. MARTELL:

2 Q. Did you hear that?

3 A. No. You would have to replay it for me. I'm
4 sorry. It's -- the audio is just --

5 THE COURT: We'll play it right after the
6 recess.

7 Fifteen minutes. Thank you.

8 (Court recessed at 3:30 p.m. and reconvened
9 at 3:46 p.m.)

10 (Witness resumed stand.)

11 THE COURT: Ready to bring the jury out?

12 You can bring the jury out, Mr. Toliver.

13 Thank you.

14 You may be seated.

15 Counsel, you may proceed.

16 MS. MARTELL: Thank you, Your Honor.

17 CROSS-EXAMINATION (Continued)

18 BY MS. MARTELL:

19 Q. Ms. Vargas, if you can bear with me, I'm going to
20 play a recording.

21 A. Okay.

22 Q. And then I'm actually going to direct you on that
23 page five that you have, about 13 lines down, JR,
24 starting with, "Then that's another problem." Do you
25 see that?

1 A. I see it.

2 Q. Okay. That's the section that I'm going to focus
3 on. So just if you could follow along with me.

4 (Audio played.)

5 Did you hear that?

6 A. I did.

7 Q. Okay. And, were you able to follow along with
8 your translation?

9 A. I did.

10 Q. Okay. Now, I'm going to play another section.
11 If you could turn your attention -- and I believe it's
12 going to be your page nine, at the top, it says, "OC:
13 Uh-huh."

14 A. Okay.

15 Q. And then, okay, I'm actually going to be
16 referring to about, again, 11, 12 lines down, JR
17 starting with, "No, I'm only saying..."

18 Do you see that part?

19 A. I do.

20 Q. Okay. That's the part I'm going to play.

21 (Audio played.)

22 Okay. In those two sections that I referred you
23 to --

24 A. Yes.

25 Q. -- we have the same speaker use the same phrase,

1 correct?

2 A. Yes.

3 Q. However, you translated it in each instance
4 differently, correct?

5 A. Yes.

6 Q. Why the lack of consistency, Ms. Vargas?

7 A. Because of the context of the conversation, of
8 the sentence.

9 Q. In both sections, the context is pretty much the
10 same, that this is something that's going to grow legs,
11 correct?

12 Would you agree that "*sale barba*," s-a-l-e,
13 second word b-a-r-b-a, is the same as in the English way
14 of saying, that's something that can grow legs, correct?

15 A. Yes.

16 Q. So why would the same speaker, if the context is
17 the same, that this is something that could become a
18 problem, why would you translate it differently?

19 Why not use the same, either consequences, as you
20 said that that means?

21 Why not use the same phrase -- word in both
22 instances?

23 A. I just chose something different.

24 Q. I want to talk to you about the review process
25 that you discussed earlier. You testified, when

1 Ms. Martinez [sic] asked you that sometimes you take
2 notes, correct?

3 A. Correct.

4 Q. Why -- where are those notes?

5 What happens to them?

6 A. They are basically underneath this, so they get
7 deleted.

8 Q. Is that the process that all contract linguists
9 use?

10 A. No.

11 Q. They go over their notes?

12 A. What do you mean, go over them?

13 Q. Meaning that they write over their notes or
14 delete them?

15 A. That's my process.

16 Q. Okay. So, some other linguists, they keep their
17 notes?

18 A. Could be.

19 Q. And if you were to keep your notes, we would see
20 places where perhaps another linguist suggested another
21 word or a different meaning?

22 A. No.

23 THE COURT: Excuse me.

24 Tell me how you keep your notes.

25 THE WITNESS: When I'm listening to a

1 recording, and if I need to take notes, I take it on the
2 Word Perfect document I'm writing on. So once I know
3 what I want to translate, I just delete the Spanish or
4 whatever I wrote, and I wrote -- I write what I'm
5 writing, basically.

6 THE COURT: Come to sidebar, please.

7 (Thereupon, the following side-bar
8 conference was had.)

9 THE COURT: I don't know how Word Perfect
10 works, but I know in Word, that when you make
11 modifications, it's not deleted, it's just there. You
12 just accept the final version.

13 Now I'm not sure about Word Perfect, but in
14 my experience with some sort of computer, it's not
15 deleted. It's still there.

16 So, I just want to make that point. And I
17 don't know if you all use Word Perfect. I'm sure how it
18 is in Word, in Word you can't erase. You can see all
19 the modifications.

20 MS. MARTELL: Your Honor, that's my
21 understanding of Word Perfect as well, That there is --
22 the program code or the metatags, as you would say,
23 maintain those different versions.

24 When she saves this, they're -- these other
25 formats that she had or these notes are still there.

1 They could be retrieved. That's what the metatags or
2 the coding of the documents would be.

3 So, at the -- based on that, we would be
4 making -- we would ask the government to provide those
5 file formats, because that data can be extracted, if we
6 were provided the actual Word Perfect documents.

7 THE COURT: Well, you've got to lay a
8 foundation for that.

9 MS. MARTINEZ: Your Honor, may I respond?

10 THE COURT: Sure, you can respond.

11 MS. MARTINEZ: The response -- I'm not sure
12 that there's any basis for discovery request of drafts
13 and work product from one linguist. A linguist is
14 sitting there making notes, making changes, creating a
15 draft, revising the draft. I'm not sure there's any
16 basis in the rules of discovery for the production of
17 that kind of work product.

18 THE COURT: I'll let you all brief that.
19 Thank you.

20 MS. AUSTIN: Your Honor, I didn't come up to
21 the bench and I sat and watched the witness look at --
22 the witness look at the jurors, smile, make eye contact,
23 roll her eyes like this (indicating), "It's just
24 terrible."

25 And I think it's completely inappropriate,

1 what she's doing with the members of the jury. And I
2 wanted to alert the Court to it, because nobody was up
3 there to see it. But I sat there and watched it.

4 THE COURT: You've got a chance to question
5 her. You can bring that up. Go ahead.

6 MR. AMOLSCH: What's the question?

7 THE COURT: Did you understand?

8 MR. AMOLSCH: I didn't hear.

9 MR. SALVATO: I'll let him know.

10 MS. AUSTIN: I mean, she should be
11 instructed that she's not to communicate in any way with
12 the jury, especially during a sidebar when we're here
13 and she's making eyes, she's rolling her eyes, like,
14 "Oh, this is just awful," and then smiling at all the
15 members of the jury. It's completely out of line.

16 THE COURT: Ms. Austin, do you think that
17 reflects bias?

18 MS. AUSTIN: Yes, I do.

19 THE COURT: Then you should question her
20 about it.

21 (Thereupon, the side-bar conference was
22 concluded.)

23 BY MS. MARTELL:

24 Q. Ms. Vargas, is it correct, then, that the version
25 when you -- when you start to translate an audio such as

1 this, you open a Word Perfect document; is that correct?

2 A. Yes.

3 Q. And, that document you start typing and making
4 notes, correct?

5 A. Yes.

6 Q. And then, ultimately, you delete some of those
7 notes as you create your final product?

8 A. Yes.

9 Q. But those notes, those were notes that you used
10 in arriving at this final product, correct?

11 A. I go by sessions. So -- can I -- do you need an
12 explanation?

13 This is my personal way of doing it. Let's say
14 I've listened to the CD for, you know, the first time I
15 listen throughout the whole thing, and, you know, I'll
16 make a note or two, but, I'm actually listening to begin
17 with.

18 And then I keep listening to it again, like a
19 second time, and then I start writing.

20 So, whenever I hear a speaker, I will write what
21 the speaker says, in Spanish. And then I will go back,
22 listen to it again, listen to it again, and I will write
23 it in English. But, therefore, I'm writing on top of
24 what I wrote in Spanish, so the Spanish part gets
25 deleted.

1 And then I keep going and going and going until
2 I'm done with the recording. And then once again, if I
3 have certain parts that I'm not sure about, I'll go back
4 to the recording and I'll listen to it again, I'll type
5 what I think it is or what it is.

6 And then if I'm not satisfied with what I wrote,
7 then I'll go over it again and again until I'm
8 satisfied.

9 But, I'm basically typing on top of what I
10 already typed, so there is no paper, there is no --

11 Q. I understand.

12 And you save -- ultimately, you save that
13 document in the same Word Perfect format?

14 A. Yes.

15 Q. And so there exists a saved copy somewhere of
16 that document, correct?

17 A. A final one, yes.

18 Q. And that file would be in a Word Perfect document
19 format?

20 A. Yeah. It's here.

21 Q. Well, this is the printout. This isn't the
22 document in that Word Perfect format.

23 A. I have the same thing you do.

24 Q. So you do have the same product saved as a Word
25 Perfect document somewhere?

1 A. Yes.

2 Q. Ms. Vargas, in addition to that process that you
3 go through, someone then reviews the translation that
4 you've prepared, and they use that with track changes,
5 correct?

6 A. Yes.

7 Q. When they make their suggestions?

8 A. Yes.

9 Q. And, that's in that same Word Perfect document
10 that you -- that you have saved?

11 A. That I submitted, yes.

12 Q. And, then, you decide whether you're going to
13 keep those changes or reject them, correct?

14 A. Correct.

15 Q. And ultimately, that decision is up to you?

16 A. Yes.

17 Q. You reviewed these about ten times, you
18 testified?

19 A. Yes.

20 Q. So, did there come a time that the inconsistency
21 stood out to you when you were reviewing it?

22 A. No.

23 MS. MARTELL: I don't have any further
24 questions. Thank you.

25

CROSS-EXAMINATION

BY MR. CONTE:

Q. Good afternoon, Ms. Vargas.

A. Good afternoon.

Q. My name is Joseph Conte. Mr. Dwight Crawley and I represent Douglas Duran Cerritos.

Do you ever do translations where you list the Spanish on one side of the paper and then the English translation on the other?

A. No.

Q. That's never done in the FBI?

A. It is.

Q. It is?

A. But I personally have not.

Q. Do you know under what occasions they would do a -- a translation like that?

A. It's up to the case agent, whatever their needs are.

Q. So, the possibility exists to put the Spanish and English on one page. It's up to the case agent to make that decision?

A. Yes.

Q. And is that -- to your knowledge, is that dictated by the time necessary to prepare for trial?

A. I don't know.

1 MR. CONTE: All right. I have nothing
2 further.

3 Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. AMOLSCH:

6 Q. Good afternoon, Ms. Vargas.

7 A. Hello.

8 Q. I understand that you've been a contract linguist
9 with the FBI for ten years?

10 A. Yes.

11 Q. And you're a contract language -- what's the "M"
12 stand for?

13 A. Monitor.

14 Q. Monitor.

15 How does your contract with the FBI -- does that
16 work?

17 Is it a year-long contract, job by job?

18 A. It's yearly.

19 Q. It's yearly. So you sign a year contract every
20 year.

21 And, are you paid based on the number of hours
22 you work, the amount of pages of transcription you
23 produce?

24 A. Hourly.

25 Q. Okay. When you sign your contract, do you know

1 what jobs you're going to be assigned to?

2 A. Yes.

3 Q. Okay. How does that work?

4 Do you request it?

5 Do they tell you where you're going to be?

6 A. I'm sorry.

7 Q. Do you request to be on a particular assignment?

8 A. No, I don't.

9 Q. Okay. So, when you say at the beginning -- at
10 the beginning of this year, is that when you signed your
11 new contract?

12 A. Fiscal year.

13 Q. Sorry?

14 A. Fiscal year, yes.

15 Q. At the end of the fiscal year.

16 When is the fiscal year?

17 A. September, I think.

18 Q. I'm sorry. I need you to speak into the
19 microphone.

20 A. I'm sorry. I don't recall. September?

21 Q. September.

22 So in September, we will say, you signed your
23 contract for the following year, to expire at the end of
24 August?

25 A. Yes.

1 Q. At that time, were you told where you would be
2 contracted to?

3 A. Meaning what office?

4 Q. Were you told you would be contracted to the FBI?

5 A. I'm my own contractor, so, I think that's what
6 it's called. So I contract my services to the FBI, just
7 the FBI.

8 Q. Just the FBI.

9 Do you do work with any other --

10 A. I do not.

11 Q. On a Monday when you come in, do you say, "I want
12 to work in that department," or do they tell you where
13 you're going to work on a particular day?

14 A. When I come in on Monday, my supervisor gives me
15 an assignment and I work on the assignment.

16 Q. All right. The job application process, I think
17 you have to renew every year. How is it determined
18 whether your contract is renewed?

19 A. On my work.

20 Q. Okay. And how is that -- based on what?

21 A. Every year, my work gets pulled, depending on how
22 many cases and different things I've worked. My
23 supervisor pulls my works and sends it out for review.
24 And either I -- and I've passed every single review.
25 That's why I'm still here.

1 Q. When you say it's sent out for review, what does
2 that mean?

3 A. It means that somebody else in some other state
4 will get an audio, and let's say my summaries or
5 anything else that I've worked on, and they will review
6 my quality of work.

7 Q. So I understand, an independent auditor listens
8 to an audio recording and compares that audio recording
9 to your translation?

10 A. Correct.

11 Q. Do you choose what audio recording gets sent?

12 A. I do not.

13 Q. Do you know if this independent auditor is also a
14 contract attorney -- a contract linguist with law
15 enforcement?

16 A. It's in the language department. It's with
17 somebody within the language department of the FBI.

18 Q. At the FBI.

19 Have you ever not had your contract renewed?

20 A. No.

21 Q. Okay. And do you know anybody that you work with
22 who has ever not had their contract renewed?

23 A. Not that I'm aware of.

24 Q. You spoke about taking a language proficiency
25 exam and having passed that.

1 A. Yes.

2 Q. Okay. What is a language proficiency exam?

3 A. It's basically when you speak Spanish or test,
4 you have to write from English to Spanish, Spanish to
5 English, in various forms, be able to speak in Spanish,
6 be able to speak in English.

7 Q. Are you -- is it a pass/fail, or do you get a
8 numerical?

9 A. You get a numerical assignment to your -- your
10 score.

11 Q. Is it a scale of one to a hundred?

12 A. I don't know.

13 Q. Do you remember what your score was?

14 A. I do not.

15 Q. Do you remember if the exam had, as part of it,
16 your understanding of regional Central American
17 dialects?

18 A. I don't recall.

19 Q. How many times have you taken this language
20 proficiency exam?

21 A. Once.

22 Q. And when did you do that?

23 A. Almost ten -- oh, more than ten years ago.

24 Q. So, since -- so, ten years ago, you were
25 proficient, but nobody has given you an exam in ten

1 years to see if you're still proficient?

2 A. Yes.

3 MR. AMOLSCH: Court's indulgence.

4 (Pause.)

5 BY MR. AMOLSCH:

6 Q. My understanding from your testimony was that you
7 have not received any specialized training in the El
8 Salvadorian dialect of Spanish. Is that correct?

9 A. Correct.

10 Q. My understanding from -- is also that you have
11 not spent any time -- any time at all in El Salvador.
12 Is that correct?

13 A. Correct.

14 Q. That means you have not spent time there as a
15 vacation?

16 A. No.

17 Q. As a day visitor?

18 A. No.

19 Q. Never been to the capital?

20 A. No.

21 Q. MS-13 cases largely involve people from El
22 Salvador, correct?

23 A. Yes.

24 Q. And your testimony is you have no experience,
25 professional experience -- you've never been trained to

1 interpret El Salvadorian Spanish?

2 MR. TOBLER: Objection, Your Honor.

3 Compound.

4 THE COURT: Sustained. One question at a
5 time, please.

6 MR. AMOLSCH: My apologies, Your Honor.

7 THE COURT: No problem.

8 BY MR. AMOLSCH:

9 Q. You would agree with me that MS-13 gang members
10 largely communicate in the El Salvadorian dialect of
11 Spanish.

12 A. Yes.

13 Q. And your testimony is that you have not received
14 any specialized training in understanding El Salvadorian
15 dialect of Spanish.

16 A. I train on the job.

17 Q. That wasn't my question.

18 A. I'm sorry.

19 Q. My question wasn't whether you learned from on
20 the job, because we're going to get to that. My
21 question was whether you received any specialized
22 training.

23 A. No.

24 Q. Has anybody from the FBI asked you to get that
25 training?

1 A. No.

2 Q. Do you know if anybody in your office has that
3 training?

4 A. I don't know.

5 Q. Have you inquired whether that training is
6 available?

7 A. No.

8 Q. What does the word "verbatim" mean to you?

9 A. Word by word.

10 Q. Do we agree, then, that if I were to tell you the
11 definition of "verbatim" is in exactly the same words as
12 were used originally --

13 A. Yes.

14 Q. -- you would agree with me, that is what
15 "verbatim" means?

16 A. Yes.

17 Q. Based on the questions you received from other
18 lawyers here, you would agree with me that your
19 translations are not verbatim, correct?

20 A. No.

21 Q. You would not agree with me?

22 A. No.

23 Q. You would agree with me -- and I don't mean to
24 beat a dead horse, but I can't understand your answers
25 on the question as relates to the word "loco." You

1 heard questions that "loco" can be translated as dude,
2 correct?

3 A. Yes.

4 Q. Yet, you sometimes wrote it down as homeboy,
5 correct?

6 A. Yes.

7 Q. You would agree with me that "dude" and "homeboy"
8 are not the same words, correct?

9 A. It is the same.

10 Q. Dude is spelled d-u-d-e --

11 A. I know --

12 Q. -- correct?

13 A. -- how it's spelled, thank you.

14 Q. Okay. So you agree with me that the word "dude"
15 is not the exact same word as the word "homeboy"?

16 A. Yes.

17 Q. Can we agree on this?

18 A. Yes.

19 Q. If a verbatim translation, which we just agreed
20 is exactly the same words as they were used
21 originally --

22 A. Yes.

23 Q. -- would you agree with me that your translations
24 are not verbatim?

25 A. No.

1 Q. So, your testimony is that even though "dude" and
2 "homeboy" are different words, they are nevertheless the
3 same words?

4 A. Not the same words, but it's got the same meaning
5 of they're talking to a friend.

6 Q. But I didn't ask you about meaning. I asked you
7 if we agreed on the definition of the word --

8 A. Yes.

9 Q. -- "verbatim."

10 A. Yes.

11 Q. Do you remember what the definition was?

12 A. Yes.

13 Q. Exactly the same words; not your impression of
14 the same meaning, correct?

15 A. Yes.

16 Q. But exactly the same words.

17 So, again --

18 A. Yes.

19 Q. -- would you agree with me that these are not
20 exactly the same words?

21 A. Yes.

22 Q. So, this -- these are not verbatim translations.
23 Can you agree with me on this?

24 A. No.

25 Q. Is that because you work for the FBI?

1 A. No. It's because it's my work.

2 Q. What is the difference, again, between somebody
3 who is a contract linguist moderator -- is that the
4 right word?

5 A. Monitor.

6 Q. -- monitor and a contract linguist analyst?
7 You answered some questions earlier, and I missed
8 the answer.

9 A. Because I'm contractor, I'm not an analyst. But
10 people who are not contractors are analysts.

11 Q. Did you testify earlier that you are not supposed
12 to be testifying about translations?

13 A. Correct.

14 Q. So, you should not even be in the courtroom
15 testifying?

16 A. I was given permission by Language Services to
17 work on this case, and --

18 Q. But --

19 A. -- to work on this.

20 Q. But according to your designation in your level,
21 which I assume is what a contract linguist monitor is,
22 you should not be testifying in this court?

23 MR. TOBLER: Objection, Your Honor. Asked
24 and answered.

25 THE COURT: Overruled.

1 THE WITNESS: I was allowed by Language
2 Services to do it, so --

3 BY MR. AMOLSCH:

4 Q. That wasn't my question. I didn't ask you if you
5 were allowed to do it. I ask you, based on you being a
6 contract language monitor, you should not even be
7 testifying in this court?

8 A. If we go to the way you're --

9 Q. Yes or no?

10 A. Yes.

11 Q. Are you supposed to be creating -- I'm going to
12 use the word -- are you supposed to be creating anything
13 other than summary translations?

14 A. No.

15 Q. Yet, what the government has asked you to do is
16 create full translations, not summaries, correct?

17 A. Yes.

18 Q. So, you should not have done that, either?

19 A. No, I should.

20 Q. I understand someone gave you permission to do
21 so. But based on your being a contract language
22 monitor, you shouldn't have done that, either?

23 A. I'm --

24 Q. Yes or no?

25 A. No, I should have. Yes.

1 Q. Earlier in your testimony you referenced a
2 conversation you had, I believe, with a Ms. D'Sa.

3 A. Correct.

4 Q. And I believe she talked to you, or you talked to
5 her, about her testimony here in court. Is that
6 correct?

7 A. We talked -- I asked her how she was doing.
8 She said she was stressed.

9 Q. Okay. Let's talk about how that conversation
10 happened. Does Ms. D'Sa work in your office?

11 A. No.

12 Q. Where did you see her?

13 A. I haven't.

14 Q. I'm sorry?

15 A. I have not seen her.

16 Q. This conversation happened on the telephone?

17 A. Correct.

18 Q. Okay. Did you call her or did she call you?

19 A. She called me.

20 Q. Okay. And what did she -- what did she tell you
21 was the reason for her phone call?

22 A. D'Sa and I are actually co-workers and we're
23 friends, and we talk at least once a day.

24 Q. That's great.

25 What did she tell you was the reason for her

1 phone call?

2 A. I didn't know there had to be a reason for her to
3 call me.

4 Q. Did she not give you one?

5 A. She said she was stressed because she had to go
6 pick up Adrienne, her daughter.

7 Q. So your testimony earlier today was about the
8 fact that you had a conversation with Ms. D'Sa about
9 your testimony here -- about her testimony here in
10 court, and she said she was stressed.

11 A. Yes.

12 Q. Now, you're telling me the testimony -- she said
13 she was stressed, not about her testimony here, but
14 about picking up her daughter?

15 A. Well, the person -- the other lawyer rephrased
16 the question differently. She said: Why did she say?
17 I said: She was stressed.

18 Q. The question that you got from the other lawyer
19 was about your testimony in court.

20 And your response, if I remember correctly, was
21 that you had a conversation with her about her testimony
22 in court, and that she said she was stressed. Is that
23 correct?

24 A. I don't recall.

25 Q. Well, let's talk about it again now.

1 A. Please, go ahead.

2 Q. Have you had a conversation with Ms. D'Sa about
3 her testimony here in court, even if that testimony
4 included the phrase, "I'm stressed"?

5 A. No.

6 Q. Have you had a conversation with Ms. D'Sa at all
7 about her testimony here in court?

8 A. No.

9 Q. Have you had a conversation with anybody about
10 their testimony here in court?

11 A. No.

12 Q. You mentioned that you referred to glossaries
13 when you were doing these translations. Is that
14 correct?

15 A. Yes.

16 Q. Where did you get those glossaries from?

17 A. Google.

18 Q. I'm sorry?

19 A. Internet.

20 Q. You downloaded your own glossaries?

21 A. No, I didn't.

22 Q. Well, let's take them one by one. I'm going to
23 show you some glossaries --

24 THE COURT: No, no. Follow up with the
25 first question.

1 MR. AMOLSCH: I'm sorry?

2 THE COURT: She said she went on Google.
3 There's a followup question to that, isn't there?

4 MR. AMOLSCH: Okay.

5 BY MR. AMOLSCH:

6 Q. You went -- explain that to me. You went on
7 Google?

8 A. Urban Dictionary.

9 Q. That's where you got your translations, Urban
10 Dictionary?

11 A. I get ideas of what certain -- of -- when you go
12 to Google, you know, you can put in a word and it will
13 give you different definition of a specific word.

14 So based on the context of the conversation and
15 what I'm looking for, I pick the word that I understand
16 fits my needs.

17 Q. So, just to summarize where we are so far, before
18 I move on, you're here testifying when you shouldn't be,
19 correct?

20 A. No.

21 Q. You have provided -- you have completed trans- --
22 translations that you should not have, because they're
23 not summaries, correct?

24 (Pause.)

25 You need to answer.

1 THE COURT: She didn't answer.

2 THE WITNESS: Oh, I need to answer?

3 THE COURT: Yeah. When he asks you a
4 question, he expects you to answer.

5 THE WITNESS: I'm sorry. I thought he was
6 going to keep on going.

7 MR. AMOLSCH: That's why we're here.

8 BY MR. AMOLSCH:

9 Q. So, yes?

10 A. No.

11 Q. And, you are using Urban Dictionary --

12 A. Yes.

13 Q. -- as one of your sources --

14 A. Yes.

15 Q. -- for your translations here?

16 A. Yes.

17 Q. These are some glossaries that were provided to
18 us by the government.

19 A. Okay.

20 Q. I'm going to ask you to take a look at these and
21 see if these are some that you've used or not.

22 A. Okay.

23 Q. The first one is called Dirty Spanish. Have you
24 ever seen this?

25 A. Never.

1 Q. Do you know anybody in your office who has used
2 this?

3 A. No.

4 Q. Talk Dirty Spanish.

5 A. No.

6 Q. Have you ever seen this?

7 A. No.

8 Q. Have you ever used it?

9 A. Nope.

10 Q. Dictionary of Spanish Slang. Do you recognize
11 this?

12 A. I don't own one.

13 Q. Have you ever seen anybody in your office use it?

14 A. I don't know.

15 Q. Have you ever seen Ms. D'Sa use these?

16 A. No.

17 Q. Ms. D'Sa is your good friend, correct?

18 A. Yeah.

19 Q. Streetwise Spanish; ever seen this?

20 A. No.

21 Q. Ever used this?

22 A. No.

23 Q. Ever seen anybody else use it?

24 A. No.

25 Q. Ever seen Ms. D'Sa use it?

1 A. No.

2 Q. Oops.

3 There's another glossary of words, handwritten
4 and typed. I'm going to ask you to look at these and
5 tell me if you recognize them or have any idea where
6 they came from.

7 MR. AMOLSCH: I'll ask Mr. Toliver to show
8 you this.

9 THE COURT: We'll mark that for
10 identification.

11 MR. AMOLSCH: Yes.

12 THE COURT: Not offered into evidence, but
13 just marked for identification.

14 MR. AMOLSCH: Yes, Your Honor. We'll mark
15 it as -- I'm for Mr. Cerna, Judge, so, Cerna 1?

16 THE COURT: All right. Just for
17 identification.

18 MR. AMOLSCH: It's been marked Cerna 1, Your
19 Honor, for identification purposes.

20 THE COURT: All right.

21 THE WITNESS: Thank you.

22 BY MR. AMOLSCH:

23 Q. Have you had a look at that?

24 A. Uh-huh.

25 Q. Do you recognize it?

1 A. I've seen something similar.

2 Q. Have you ever used that?

3 A. Yes.

4 Q. Do you have any idea where it came from?

5 A. I got a copy like -- similar to this from Sandy.

6 Q. Who is Sandy?

7 A. Sandra D'Sa.

8 Q. Sandra D'Sa.

9 Do you know where she got it?

10 A. No.

11 Q. Do you know if that's reliable in any way?

12 A. Yes.

13 Q. How do you know that it's reliable?

14 A. Because she's had it for a long time.

15 Q. I understand Sandy's had it for a long time. My
16 question is: How do you know that the information
17 contained in that document is reliable?

18 A. Because whenever I have a question on a word, I
19 also talk to my colleagues regarding the word, even
20 though if it's in the glossary and I find the word on
21 Google, I find the word in the glossary, I will go to my
22 senior linguist and be like, "This is where I am. This
23 is what I have. I need your input on this." And then I
24 will make my own final decision.

25 Q. Other than Sandy, have you ever seen anybody else

1 use this?

2 A. No.

3 Q. So, you and Sandy use this.

4 Do you know if Sandy has had this approved by
5 anybody at the FBI?

6 A. We work in different offices.

7 Q. Do you know if Sandy has had --

8 A. I don't know.

9 Q. -- this approved by anybody at the FBI?

10 A. I don't know.

11 Q. May I have that back?

12 This document is an 11-page document, "Mara
13 Salvatrucha Gang Terminology," prepared by the Criminal
14 Investigative Division, from 2008.

15 Have you seen this document?

16 A. If I could see a little bit closer, I would be
17 able to see it.

18 MR. AMOLSCH: I'm going to mark this one as
19 well, Judge.

20 THE COURT: Yes.

21 MR. AMOLSCH: It's marked for identification
22 purposes as Cerna 2, Your Honor.

23 THE WITNESS: Thank you.

24 BY MR. AMOLSCH:

25 Q. Do you recognize that document?

1 A. Yes.

2 Q. Have you seen it?

3 A. I have.

4 Q. Have you used it?

5 A. Yes.

6 Q. When was the last time you used it?

7 A. About six months ago.

8 Q. So, your -- and that document is dated 2008; is
9 that correct?

10 A. Yes.

11 Q. Okay. Can you look in that document and point to
12 me the definition of the word "*loco*"?

13 A. It's not here.

14 Q. Not in there?

15 A. No.

16 MR. AMOLSCH: Can I have that back?

17 THE WITNESS: Sure. Thank you.

18 MR. AMOLSCH: Thank you, Mr. Toliver.

19 Court's indulgence. I'm sorry.

20 BY MR. AMOLSCH:

21 Q. I'm going to hand these to you. I'm going to ask
22 you to identify which of any of these documents you
23 recognize as having -- you having used them during your
24 translations.

25 A. Okay.

1 THE COURT: Translations in this case or
2 translations in general?

3 MR. AMOLSCH: Translations in this case.

4 THE COURT: Okay. All right.

5 MR. AMOLSCH: Thank you.

6 And when you've identified them, hand them
7 back to me and we'll go through them.

8 THE WITNESS: Okay.

9 THE COURT: This is Cerna 3?

10 MR. AMOLSCH: Yes, sir, Cerna 3, the entire
11 lot of them.

12 BY MR. AMOLSCH:

13 Q. Are you finished?

14 A. Yes.

15 Q. Do you recognize any of those documents?

16 A. Some.

17 Q. Can you identify for me the ones -- pull out the
18 ones that you recognize as you having used in your
19 translations.

20 MR. TOBLER: Your Honor, just to be clear,
21 she's transferring to translations in --

22 MR. AMOLSCH: In this case. I apologize.
23 Always in this case, Judge. I apologize. In this case.

24 Thank you, Mr. Tobler.

25 BY MR. AMOLSCH:

1 Q. That's it?

2 A. Uh-huh.

3 MR. AMOLSCH: Mr. Toliver, thank you, sir.

4 THE WITNESS: You want the stack?

5 BY MR. AMOLSCH:

6 Q. So, my understanding, you had all of this at your
7 disposal, and never once referred to it?

8 A. No, I -- (pause) --

9 Q. And, what you've identified is something put
10 together by Ms. America Lester, right?

11 A. Leister.

12 Q. Leister. That's who we spoke about before,
13 right?

14 A. Yes.

15 Q. Last name, L-e-i-s-t-e-r?

16 A. Yes.

17 Q. This was prepared -- there's a date on top of
18 here that says June 4th, 2004.

19 A. I saw it.

20 Q. Twelve years ago?

21 And this is what you used?

22 A. May I be a little specific?

23 Q. Sure.

24 A. Ms. Leister updates her glossary.

25 Q. Do you know that?

1 A. Uh-huh.

2 Q. Have you seen her do that?

3 A. Yes.

4 Q. When did -- when was it most -- when did she most
5 recently update it?

6 A. I don't recall, but she does it.

7 Q. Can you point to me -- I'm going to hand this
8 back to Mr. Toliver -- where the word "loco" is on any
9 of this?

10 A. Thank you.

11 It's not on this one.

12 MR. AMOLSCH: Thank you.

13 No further questions, Judge.

14 THE COURT: Is that it from the defense?
15 (No audible response.)

16 THE COURT: Redirect.

17 MR. TOBLER: No, Your Honor, no redirect.

18 THE COURT: All right.

19 May the witness be excused?

20 (No audible response.)

21 THE COURT: You're free to leave. Thank you
22 very much.

23 THE WITNESS: Thank you.

24 MR. AQUINO: Judge, may we approach?

25 THE COURT: Let's do it at the end of the

1 day.

2 MR. AQUINO: Sure.

3 (End of requested excerpt.)

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2 CERTIFICATE OF REPORTER
3

4 I, Renecia Wilson, an official court
5 reporter for the United States District Court of
6 Virginia, Alexandria Division, do hereby certify that I
7 reported by machine shorthand, in my official capacity,
8 the proceedings had upon the jury trial in the case of
9 UNITED STATES OF AMERICA v. JOSE LOPEZ TORRES, et al.

10 I further certify that I was authorized and
11 did report by stenotype the proceedings in said jury
12 trial, and that the foregoing pages, numbered 1 to 93,
13 inclusive, REQUESTED EXCERPT, constitute the official
14 transcript of said proceedings as taken from my
15 shorthand notes.

16
17 IN WITNESS WHEREOF, I have hereto
18 subscribed my name this 24th day of April, 2016.

19
20 /s/

21 Renecia Wilson, RMR, CRR
22 Official Court Reporter
23
24
25